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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,440	09/25/2006	Shinsuke Nagahara	0445-0360PUS1	8931
2292 7590 03/06/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER EDWARDS, NEWTON O				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 03/06/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/552,440

Applicant(s)

NAGAHARA, SHINSUKE

Examiner

N Edwards

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 5-7 is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 10/6/05, 1/6/06, 10/29/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Regarding applicant 1449, the lined references were not considered since applicant failed to provide , for each non-english foreign patent, a concise explanation of relevance ,as it is presently understood by the individual designated in rule 56 as required by rule 98.

1. Claims 5,6,7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, line 1 " the inter fiber distance" is vague and indefinite since it lack proper antecedent basis in claim 1 and the overall meaning of the claim is unclear. See page 8 lines 8-21 of spec for help, for example. See claim 6 for the same problem (interfiber distance) as claim 5.

Claim 7, line 1 " localized in the side (of what ?) with no cotton fiber layer" is vague and indefinite as to the meaning of the claims. Are you trying to remove the cotton fiber layer ? if so claim 7 would fail to further limit claim 1. See page 5 lines16-19 spec for guidance on the claim language.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 2, 3, 8, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Welch (US 6,022,818) alone or optionally take with Taneichi (US 6844,481).

Welch teaches an absorbent article, such as pantiliner, comprising a composite having at least two layers in which the matrix web layer includes a web of sheath core fibers (fiber a) and a fiber which is not thermally bonded (fiber c) such as a polyester fibers or rayon fibers in an amount from 35-70 wt % adjacent to an pulp sheet non-woven (or absorbent fibers) made from cotton fibers(layer) in which the two webs or nonwovens are hydroentangled to one another (which inherently make the cotton fiber layer gradually decrease from side to side in the composite). See fig 1 and 2, col. 2 lines 37-54, col. 3 lines 11-20, col. 4 lines 37-44, col. 5 lines 43-45, col. 6 lines 43-61, and examples 1-3, for example.

Taneichi, a Kao Corporation patent, is cited to show that absorbent article such as pant liners, as disclosed by Welch, inherently comprise a liquid permeable top sheet, a liquid impermeable back sheet, and a liquid retentive absorbent member interposed between the top sheet and the back sheet as claim 11.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welchel taken with Pike ((US 6,169,045) .

Welchel, a Kimberly Clark patent, is applied for the same reasons given supra and is hereby incorporated by reference. Welchel teaches all of the claimed invention except a latent crimp fiber in the composite web. Pike, a Kimberly Clark patent, teaches is well known in the art of absorbent articles to incorporate a latent crimp fiber(sheath core fibers) in the nonwoven web in order to improved loft to the web(better air circulation). see col.3, col.4, and col.6 , fro example.

Therefore, it would have been obvious to one having ordinary skill in the art to combine the latent crimp fibers, as taught by Pike , in the matrix web layer, as taught by Welchel, in order to provide a loft to the nonwoven web for better air circulation.

6. Claims 9,10,and 11are rejected under 35 U.S.C. 103(a) as being unpatentable over Welchel alone or taken with Taneichi .

Welchel and Taneichi are applied for the same reason given above which is hereby incorporated by reference. Welchel, on one hand, teaches all of the claimed invention except cotton fiber layer (liquid permeable layer) on both side of the nonwoven fabric. On the other hand, Welchel teaches the absorbent article can be training pants. Official Notice is taken that training pants on a child must make the child feel wet (a first cotton fiber layer which is liquid preamble)) to train and show that parent the child is wet (a second cotton fiber layer) in order to change the child or to pull the wetness away from the child.

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Thus, it would have been obvious to one of ordinary skill in the art to incorporate a cotton fiber layer on both side of the matrix web layer in a training pants as taught by Welch in order to train the child by making him feel wet (a first cotton layer) and show the parent wetness(a second cotton layer) to change the child or pull the wetness away from the child.

Allowable subject matter:

7. Claims 5,6, and 7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N Edwards whose telephone number is 571-272-1521.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/N Edwards/
Primary Examiner
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